

Senate File 204 - Introduced

SENATE FILE 204

BY NUNN

A BILL FOR

1 An Act providing for an affirmative defense to certain claims
2 relating to personal information security breach protection.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 715C.2, subsection 9, paragraph a, Code
2 2019, is amended to read as follows:

3 a. A violation of this chapter section is an unlawful
4 practice pursuant to section 714.16 and, in addition to the
5 remedies provided to the attorney general pursuant to section
6 714.16, subsection 7, the attorney general may seek and obtain
7 an order that a party held to violate this section pay damages
8 to the attorney general on behalf of a person injured by the
9 violation.

10 Sec. 2. NEW SECTION. 715C.3 **Affirmative defense for**
11 **implementation of cyber security program.**

12 1. It is an affirmative defense to any claim or action
13 alleging that a person's failure to implement reasonable
14 security measures resulted in a breach of security, that the
15 person established, maintained, and complied with a cyber
16 security program which meets all of the following conditions:

17 a. The program contains administrative, technical, and
18 physical safeguards for the protection of personal information.

19 b. The program conforms to current and accepted industry
20 standards regarding cyber security and personal information
21 security breach protection.

22 c. The program is designed to protect the security and
23 confidentiality of personal information.

24 d. The program is designed to protect against any
25 anticipated threats or hazards to the security or integrity of
26 personal information.

27 e. The program is designed to protect against unauthorized
28 access to and acquisition of personal information that is
29 likely to result in a material risk of identity theft or other
30 fraud to the individual to whom such personal information
31 relates.

32 2. An affirmative defense under this section shall be
33 established by a preponderance of the evidence.

34 3. This section shall not be construed to create a private
35 right of action with respect to a breach of security.

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EXPLANATION

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The inclusion of this explanation does not constitute agreement with
the explanation's substance by the members of the general assembly.

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4 This bill establishes an affirmative defense to any claim or
5 action alleging that a person's failure to implement security
6 measures resulted in a breach of security; that the person
7 established, maintained, and complied with a cyber security
8 program that contains administrative, technical, and physical
9 safeguards; conforms to current and accepted industry standards
10 regarding cyber security; is designed to protect the security
11 and confidentiality of personal information; is designed to
12 protect against any anticipated threats or hazards to personal
13 information; and is designed to protect against unauthorized
14 access to and acquisition of personal information.

15 The bill provides that an affirmative defense under the bill
16 shall be established by a preponderance of the evidence. The
17 bill also provides that it shall not be construed to create a
18 private right of action with respect to personal information
19 security breaches.